THE HON'BLE SRI JUSTIE B.PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.No. 18227of 2006

DATE: 4.9.2006
Between:

T.Vijaya Bhaskar …. Petitioner

And

1. Engineer-in-Chief,
Administration Wing,
Irrigation & CAD Department,
Erramanzil, Hyderabad and 3 others … Respondents

THE HON'BLE SRI JUSTIE B.PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.No. 18227of 2006

ORDER: (per **Hon'ble Sri Justice Ramesh Ranganathan**)

Heard both sides and with their consent the writ petition itself is taken up for disposal at the stage of admission.

Aggrieved by the order of the A.P. Administrative Tribunal, in O.A.No.3214 of 2006 dated 21.8.2006, the present writ petition is filed. The petitioner herein, the applicant in the O.A, while working in the respondent department as a Superintendent, was deputed to the Tungabadra Board under the A.P. quota, vide proceedings 27.7.2004. He was repatriated back to the respondent department proceedings dated 20.5.2006. It is these proceedings dated 20.05.2006 which was the subject matter of challenge before the Tribunal.

The Tribunal initially granted interim orders of stay on 31.5.2006 directing that he be continued till an alternative person was posted in his place. The plea of the petitioner-applicant, before the Tribunal, was that since he was deputed for a period of three years and the three years period would expire only in June, 2007, there was no valid reason to curtail the tenure and that once the tenure period is fixed, the petitioner was entitled to continue in the services of the Board till completion of the said three year period. The Tribunal held that since the petitioner was sent on deputation to the Tungabadra Board it was always open to the Government to recall his services and that a government servant, who is sent on deputation, has no right to continue in the services of the borrowing department.

Sri P.Srinivasulu, learned counsel for the petitioner, would refer to the order of the Government, in G.O.Ms.No.323 dated 2.3.1967, to contend that even when a government servant, serves in the Tungabadra project, he continues to remain an employee of the Government of A.P. and that he cannot be said to have been sent on deputation. Learned counsel would submit that there was no valid

reason to transfer him to Madanapalle, from the Tungabadra Board, even before completion of three year period, more so, when there were neither any charges framed nor any allegations made against him. Learned counsel would submit that the petitioner has been needlessly shifted to Madanapalle only to accommodate the 4th respondent and since his transfer was not bonafide but for extraneous reasons, the impugned order is liable to be quashed. Even if it were to be presumed that the Tribunal had erred in treating the posting, of the petitioner to the Tungabadra Board, as one of deputation, it cannot be lost sight of that it is always open to the Government, in the exigencies of administration, to post an employee wherever it considers it necessary. It is not for this Court to sit in appeal in such matters of transfer or examine as to whether the Government was justified in transferring the petitioner-applicant from the Tungabadra Board to Madanapalle.

The Government has favourably considered the representation of the 4th respondent to be posted to the Tungabadra Board and has directed that he be posted thereat. There is no material on record to justify the plea that the order transferring the petitioner is malafide. It is well settled that allegations of malafide are more easily made than established and that the degree of proof required to establish malafides is of a very high order. Since these are all matters of transfer, based on administrative exigencies, this Court, in proceedings under Article 226 of the Constitution of India, would, normally, not interfere.

The writ petition fails and is accordingly dismissed at the admission stage. However, in the circumstances, without costs.

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B.PRAKASH RAO, J

Date:4-09-2006

RAMESH RANGANATHAN, J

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